

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

HEAT & FROST INSULATORS &
ALLIED WORKERS LOCAL 25
WELFARE FUND, ET AL.,

Case No. 11-14250

Plaintiffs,

SENIOR UNITED STATES DISTRICT JUDGE
ARTHUR J. TARNOW

v.

MAGISTRATE JUDGE MONA K. MAJZOUB

HIGHLAND ENVIRONMENTAL
SERVICES, INC. ET AL.,

Defendants.

**ORDER AND JUDGMENT DENYING PLAINTIFFS' MOTION FOR
SUMMARY JUDGMENT [24] AND DISMISSING CASE**

Before the Court is Plaintiffs' Motion for Summary Judgment [24]. On July 11, 2013, the Court heard argument on the motion. At the hearing, the Court found that Plaintiffs' claim to a minimum of 160 hours of employer benefit contributions per month for employees with an ownership interest in their employer was premised on a policy "restatement" unilaterally issued by Plaintiff pension funds related to "Delinquent Employer Collection Procedures." The Court found that the language in the restatement conflicted with language in the CBA and Pension Plan, which unambiguously stated that contributions were to be made on an hourly basis for "hours actually worked." As the restatement itself noted that any conflict between the

restatement and the Pension Plan or CBA should be resolved against the restatement, the Court found that Plaintiffs' claims were unambiguously barred by the CBA and Pension Plan.

Accordingly, the Court being fully advised in the premises, and for the reasons stated on the record,

IT IS HEREBY ORDERED that Plaintiffs' Motion for Summary Judgment [24] is **DENIED**. Having rejected Plaintiffs' cause of action, and Defendants having agreed at the hearing to withdraw their counterclaims, all issues have been resolved. Accordingly, this case is **DISMISSED** and closed.

SO ORDERED.

Dated: July 18, 2013

s/Arthur J. Tarnow

Arthur J. Tarnow

Senior United States District Judge